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| 10/824,814      | 04/15/2004  | Terry G. Jones       | 09741620-0639       | 6676             |

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SONNENSCHN NATH & ROSENTHAL LLP  
P.O. BOX 061080  
WACKER DRIVE STATION, SEARS TOWER  
CHICAGO, IL 60606-1080

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| EXAMINER |
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BALSIS, SHAY L

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| ART UNIT | PAPER NUMBER |
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1744

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/824,814 | <b>Applicant(s)</b><br>JONES, TERRY G. |  |
|                              | <b>Examiner</b><br>Shay L. Balsis    | <b>Art Unit</b><br>1744                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 states that there is a “slidably connected to the handle adjacent the end” and there is a “feature connected to the head at the end” and a stand is connected to the handle “by sliding the head away from the end.” Examiner is confused as to how the head, which is connected adjacent the handle having a feature connected to end, when slid away from the end, a stand, which is connected to the handle is formed. Is the head and the stand the same element? If so, how does the head, which has a feature on the end, act as the stand for retaining the implement. This seems contradictory since the feature is supposed to be suspended. If the head and the stand are not the same, then by sliding the head with the feature, how does the stand work? The examiner is not sure which figure this claim is referring to. Please clarify the issues at hand, by pointing out which embodiment the applicant is trying to claim and by clearing up the issues listed above.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 9-10, 14 and 20 are rejected under 35 U.S.C. 102(a) as being anticipated by Nagoya (JP 2004008267A).**

With regards to claim 1, Nagoya teaches system for cleaning comprising a handle (2) and a head connected to the handle. There is a stand (4) indirectly connected to the head for supporting the system in an upright position (figure 1a).

With regards to claim 9, when stand is fixed to the head, the bristles of a broom (1) are suspended from providing any significant support (figure 1a).

With regards to claim 10, the stand keeps the broom in an upright freestanding position.

With regards to claim 14, the stand can be considered a guard for substantially shielding the bristles (since more than 50% of the bristles are covered by the guard).

With regards to claim 20, a broom (1) can be stored on a guard (4) that protrudes beyond the bristles of the broom and supports the broom in an upright freestanding position without supporting force on the bristles (figure 1a).

**Claims 1-5, 9-17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner (USPN 2441982).**

With regards to claim 1, Turner teaches system for cleaning comprising a handle (5) and a head (9) connected to the handle. There is a stand (20) indirectly connected to the head for supporting the system in an upright position (figure 3).

With regards to claim 2, there is an implement (6) connected to the head and the stand is selectively retractable with the head to retain the stand from interference with the implement (figure 3 and figure 4).

With regards to claim 3, there is a broom with a handle (5) and a head (9) with bristles (6) connected to the handle. There is a support (20) slidably engaged with the head. The support extends from the head beyond an extent of the bristles (figure 3).

With regards to claims 4 and 5, the broom is storable in an upright freestanding position on the support (figure 3) and the bristles do not bear any force in supporting the broom in an upright position.

With regards to claim 9, when stand is fixed to the head, the bristles of a broom (5, 6, 7, 8, 9) are suspended from providing any significant support (figure 3).

With regards to claim 10, the stand keeps the broom in an upright freestanding position.

With regards to claims 11-13, the stand is retracted when the broom is employed for cleaning and extended for storing on planar floor (figure 3 and 4). The stand is retracted or extended by sliding the stand with respect to the head.

With regards to claim 14, there is a guard (15, 20) for shielding the bristles. The guard (15) surrounds the bristles (figure 1)

With regards to claim 15, the bristles are connected to the handle and the guard (20) is slidably engageable with respect to the handle and the bristles to shield or unshield the bristles (figures 3 and 4).

With regards to claim 16, the guard (20) forms a stand for the broom when slidably shielding the bristles (figure 3).

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With regards to claim 17, the guard prevents forcible contact of the bristles with a surface on which the guard (20) is located as the stand (figure 3).

With regards to claim 19, the guard is a projection that extends beyond the bristles when the guard (20) is located as a stand (figure 3).

With regards to claim 20, a broom (5, 6, 7, 8, 9) can be stored on a guard (20) that protrudes beyond the bristles of the broom and supports the broom in an upright freestanding position without supporting force on the bristles (figure 3).

**Claims 1-17 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Manthey (USPN 6840557).**

With regards to claim 1, Manthey teaches a system for cleaning comprising a handle (11) and a head (14) connected to the handle. There is a stand (25) indirectly connected to the head for supporting the system in an upright position (figure 3).

With regards to claim 2, there is an implement (15) connected to the head and the stand is selectively retractable with the head to retain the stand from interference with the implement (figures 7, 9).

With regards to claim 3, there is a broom with a handle (11) and a head (14) with bristles (15) connected to the handle. There is a support (25) slidably engaged with the head. The support extends from the head beyond an extent of the bristles (figure 9).

With regards to claims 4 and 5, the broom is storable in an upright freestanding position on the support (figure 9) and the bristles do not bear any force in supporting the broom in an upright position.

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With regards to claim 6, there is a handle (11) having an end. There is a head (17) connected to the handle adjacent the end. There is a feature (15) connected to the head at the end. There is a stand (25) for retaining the implement with the feature suspended (figure 9).

With regards to claim 7, the stand includes at least three points of contact with a planar surface.

With regards to claim 8, the stand can be retracted or extended to provide retention of the implement in an upright freestanding position (figures 7, 9).

With regards to claim 9, when stand is fixed to the head, the bristles of a broom (10) are suspended from providing any significant support (figure 9).

With regards to claim 10, the stand keeps the broom in an upright freestanding position.

With regards to claims 11-13, the stand is retracted when the broom is employed for cleaning and extended for storing on planar floor (figure 7 and 9). The stand is retracted or extended by sliding the stand with respect to the head.

With regards to claim 14, there is a guard (25) for substantially shielding the bristles.

With regards to claim 15, the bristles are connected to the handle and the guard is slidably engageable with respect to the handle and the bristles to shield or unshield the bristles (figures 7 and 9).

With regards to claim 16, the guard forms a stand for the broom when slidably shielding the bristles (figure 9).

With regards to claim 17, the guard prevents forcible contact of the bristles with a surface on which the guard is located as the stand (figure 9).

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With regards to claim 19, the guard is a projection that extends beyond the bristles when the guard is located as a stand (figure 9).

With regards to claim 20, a broom (10) can be stored on a guard (25) that protrudes beyond the bristles of the broom and supports the broom in an upright freestanding position without supporting force on the bristles (figure 9).

**Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bohne (USPN 3106738).**

With regards to claim 1, Bohne teaches system for cleaning comprising a handle (8) and a head (9) connected to the handle. There is a stand (11) indirectly connected to the head for supporting the system in an upright position (figure not shown).

With regards to claim 2, there is an implement (10) connected to the head and the stand is selectively retractable with the head to retain the stand from interference with the implement (figures 1, 2).

With regards to claim 3, there is a broom with a handle (8) and a head (9) with bristles (10) connected to the handle. There is a support (11) slidably engaged with the head. The support extends from the head beyond an extent of the bristles (figure 1).

With regards to claims 4 and 5, the broom is storable in an upright freestanding position on the support (figure 1) and the bristles do not bear any force in supporting the broom in an upright position.

With regards to claim 6, there is a handle (8) with a head (9) adjacent the handle. There is a feature (10) connected to the handle. There is a stand (11) for retaining the implement with the feature suspended (figure 1) when the head is slid away from the end.



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With regards to claim 7, the stand includes at least three points of contact with a planar surface.

With regards to claim 8, the stand can be retracted or extended to provide retention of the implement in an upright freestanding position (figures 1 and 2).

With regards to claim 9, when stand is fixed to the head, the bristles of a broom are suspended from providing any significant support (figure 1).

With regards to claim 10, the stand keeps the broom in an upright freestanding position.

With regards to claims 11-13, the stand is retracted when the broom is employed for cleaning and extended for storing on planar floor (figure 1 and 2). The stand is retracted or extended by sliding the stand with respect to the head.

With regards to claim 14, there is a guard (11) for substantially surrounding and shielding the bristles.

With regards to claim 15, the bristles are connected to the handle and the guard is slidably engageable with respect to the handle and the bristles to shield or unshield the bristles (figures 1 and 2).

With regards to claim 16, the guard forms a stand for the broom when slidably shielding the bristles (figure 1).

With regards to claim 17, the guard prevents forcible contact of the bristles with a surface on which the guard is located as the stand (figure 1).

With regards to claim 18, the guard is a shroud that substantially surrounds the bristles.

With regards to claim 19, the guard is a projection that extends beyond the bristles when the guard is located as a stand (figure 1).

With regards to claim 20, a broom can be stored on a guard (11) that protrudes beyond the bristles of the broom and supports the broom in an upright freestanding position without supporting force on the bristles (figure 1).

While Bohne does not teach a broom, it is capable of being used as a broom. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, while Bohne does not disclose that the invention could be used as a broom, it is clearly capable of being used as a one and therefore meets all the claimed limitations.

#### ***Response to Arguments***

Applicant's arguments filed 4/28/06 have been fully considered but they are not persuasive.

The applicant argues that Nagoya, Turner and Manthey fail to teach a stand connected to the head. Applicant states that the references all teach stands connected to the handle. However, the examiner would like to point out that while the stands are connected to the handles, they are indirectly connected to the heads. The claim language does not state that the stands are directly connected to the heads, and therefore, the references read on the limitation that the stands are connected to the head in an indirect way. Additionally, the applicant argues that that the stands of Nagoya, Turner, and Manthey do not surround the bristles. While the stand does not completely surround and encase the bristles, the stand does partially surround the bristles. Just because the bristles are exposed, does not mean that the bristles are not surrounded. The references mostly teach that the stand is located around all the bristles. The bristles are not

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encased within the stand but the stand will act a guard for protecting the bristles. The examiner is interpreting the stand to be similar to a jail cell, the bristles are protected within the stand but they are still exposed.

With respect to Nagoya, the applicant stated that the broom stand is flexible and therefore the broom must rest on the floor to provide support for the broom. The applicant has provided no support for this statement. Nagoya does not state that the broom bristles **must** rest on the floor to provide support for the scoop and broom. While the examiner agrees that the scoop is made of a flexible material, it can be concluded that the scoop will still be able to support the weight of a broom without collapsing based on the shape of the scoop. The scoop is formed in a semi conical shape to aid in supporting the weight of the broom. The scoop may be flexible and create a “flaring” of the sides when the broom is placed upright within the scoop, however, the broom does not need to rest on the floor to support the combination. The scoop will “flare” to a certain degree since it is flexible however once stabilization has occurred the combination broom and scoop will be supported upright. The broom bristles are not necessarily part of the stabilization process; the shape of the scoop is what allows the broom and scoop to be stabilized in an upright position.

Regarding Bohne, the applicant argues that the sleeve is used to merely cover the bristles when the brush is not being used. As stated above, while Bohne does not teach a broom, it is capable of being used as a broom. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, while Bohne does

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not disclose that the invention could be used as a broom, it is clearly capable of being used as a one and therefore meets all the claimed limitations. Even though the sleeve of Bohne is used to cover the brush when it is not being used, it could also act as a stand for holding the brush upright.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*shulin*

Slb  
6/13/06

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER